

## United States District Court

for the  
Western District of New York

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address.)

**Black and pink T-Mobile cellular phone, IMEI: 861273032909088 (Subject Phone 1)****Black and white Apple iPhone 8 (Subject Phone 2)****Grey LG cellular telephone, Model number LGM5210, FCC ID: ZNFM210, Serial number: 705VTFW820763 (Subject Phone 3)**

Case No. 18-M-41

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See descriptions included in Exhibit A, attached and incorporated by reference.

located in the Western District of New York, there is now concealed (identify the person or describe the property to be seized):  
The items set forth on the attached schedule of items to be seized, attached hereto as Exhibit B and incorporated by reference.

The basis for search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of 21 U.S.C. §§ 841(a)(1), 843(b), 844(a), and 846

The application is based on these facts:

- ☒ continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

THOMAS V. WEIS  
Special Agent  
Federal Bureau Of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: May 3, 2018

Judge's signature

City and state: Buffalo, New York

HONORABLE H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge

Printed name and Title

EXHIBIT A

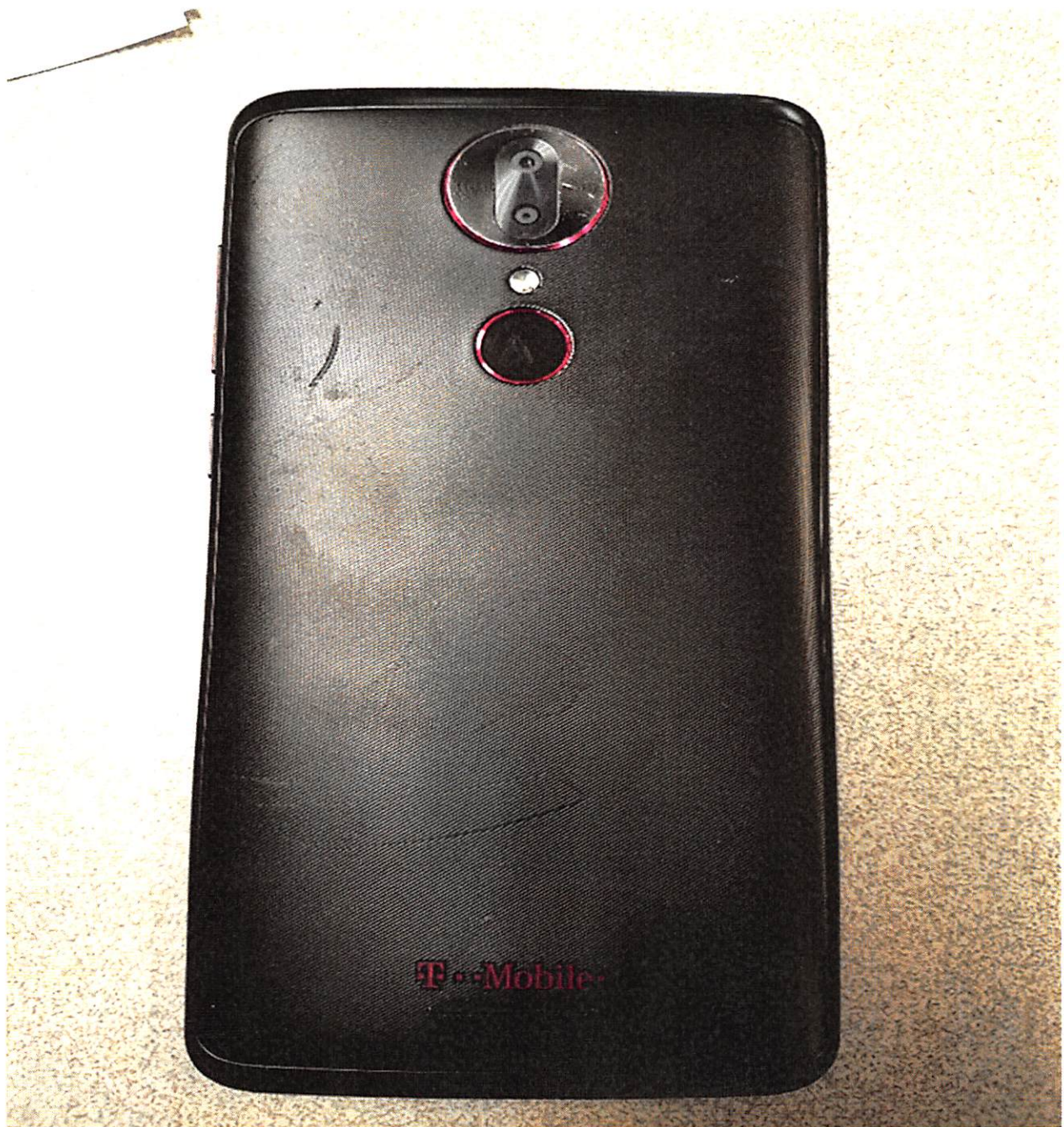
DESCRIPTION OF SUBJECTS TO BE SEARCHED

SUBJECT PHONE 1

Black and pink T-Mobile cellular phone, IMEI: 861273032909088









**SUBJECT PHONE 2**

**Black and white Apple iPhone 8 with no identifiable model number**









**SUBJECT PHONE 3**

**Grey LG cellular telephone, Model number LGM5210, FCC ID: ZNFM210, Serial number: 705VTFW820763**







**SCHEDULE OF ITEMS TO BE SEARCHED FOR AND SEIZED**

Items comprising evidence of, or property designed for use, intended for use, or used in committing violations of Title 21, United States Code, Sections 841(a)(1), 843(b), 844(a) and 846, consisting of:

- a) Records of telephone calls, including incoming, outgoing, and missed calls, phone contact addresses, email addresses and telephone numbers in directories, documents and files which reflect names, email addresses, addresses, telephone numbers and objects related to drug trafficking, and photographs regarding drug trafficking and drug trafficking associates contained in the cellular telephones;
- b) Text messages and emails contained in the cellular telephones related to drug trafficking and drug trafficking associates; and
- c) Records regarding the ownership and/or possession of the searched items.

**EXHIBIT B**



**AFFIDAVIT**

STATE OF NEW YORK   )  
COUNTY OF ERIE       )       SS:  
CITY OF BUFFALO       )

I, **THOMAS V. WEIS**, Special Agent of the Federal Bureau of Investigation, United States Department of Justice, having been duly sworn, states as follows:

1. I am a Special Agent of the Federal Bureau of Investigation (FBI) of the United States Department of Justice. As such, I am an “investigative or law enforcement officer of the United States” within the meaning of 18 U.S.C. § 2510(7), that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. § 2516.

2. I have served as an FBI Special Agent since March of 2017.<sup>1</sup> During that time, I have participated in investigations involving drug trafficking and organized crime matters, including to include narcotics investigations that utilized the court-authorized interception of wire and oral communications. In addition, I have had the opportunity to work with several other FBI agents and other law enforcement agents and officers of varying experience levels, who have also investigated drug trafficking networks, with regard to the manner in which controlled substances are obtained, diluted, packaged, distributed, sold and used within the

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<sup>1</sup> I was also previously employed from 2014 to 2015 as a United States Secret Service Uniformed Officer under the Department of Homeland Security. From 2007 to 2014, I served as a United States Army Infantry officer.



framework of drug trafficking in the Western District of New York. As a result of my experience, I am familiar with how controlled substances are obtained, diluted, packaged, distributed, sold, and used in the framework of drug trafficking in the Western District of New York and how drug traffickers utilize wire communications to facilitate their illegal activities. My investigative experience detailed herein, and the experiences of other law enforcement agents, who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

3. Your Affiant states that this investigation was conducted by Special Agents of the FBI and other law enforcement personnel assigned to the FBI Buffalo Division - Safe Streets Task Force (FBI-SSTF).<sup>2</sup> Your Affiant is fully familiar with the facts and circumstances of this investigation, such familiarity having been gained through: your Affiant's personal knowledge based upon your Affiant's participation in this investigation; statements by and/or reports provided to your Affiant by law enforcement personnel of the FBI-SSTF, Erie County Sheriff's office (ECSO), Buffalo Police Department (BPD); federal court authorized wire communications interceptions, information provided by confidential sources; consensual recordings, controlled evidence purchases of illegal drugs, information learned through a review and analysis of pen register/detailed calling records (toll records) and subscriber information related to subjects of this investigation installed pursuant to court authorization, interviews of various individuals believed to be associated with subjects of the

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<sup>2</sup> The SSTF is comprised of Agents and Investigators from the Bureau of Alcohol Tobacco and Firearms, Immigration and Customs Enforcement, Erie County Sheriff's Office, New York State Police, Amherst Police Department, Hamburg Police Department, Town of Tonawanda Police Department, the NFTA Police, U.S. Border Patrol, and the Buffalo Police Department.



investigation, physical surveillances, records checks of various public and law enforcement data bases, and other investigative techniques.

4. This affidavit is made in support of a federal search warrant application for the following cellular phones recovered during the arrest of **LEMARIO JONES** pursuant to the execution of a federal arrest warrant issued by Honorable Jeremiah J. McCarthy, United States Magistrate Judge: One (1) black and pink T-Mobile cellular phone, IMEI: 861273032909088 (**Subject Phone 1**), one (1) black and white Apple iPhone 8 with no identifiable model number (**Subject Phone 2**), and one (1) grey LG cellular telephone, Model number LGM5210, FCC ID: ZNFM210, Serial number: 705VTFW820763 (**Subject Phone 3**).

5. As it is my purpose to obtain a search warrant for which only probable cause is required, I have not included each and every fact learned during the investigation to date. I have set forth only the facts that I believe are necessary to establish probable cause to believe that the Subject Telephone, described above, are evidence of, were used in committing, and/or contains evidence/fruits/instrumentalities of violations of: 21 U.S.C. § 841(a)(1) (possession with the intent to distribute, and to distribute, fentanyl, a Schedule II controlled substance); 21 U.S.C. § 843(b) (use of a communication facility in furtherance of a controlled substance felony); 21 U.S.C. § 844(a) (simple unlawful possession of fentanyl); and 21 U.S.C. § 846 (conspiracy to possess with the intent to distribute, and to distribute, fentanyl, a Schedule II controlled substance) (hereinafter, "Enumerated Offenses").



6. The information contained in this affidavit is based upon my participation and upon reports and information received from other law enforcement officers and agencies. This affidavit is provided for the limited purposes of establishing probable cause to support the attached search warrant application and therefore does not contain each and every detail of the investigation.

#### **PROBABLE CAUSE**

7. Since late 2017, the FBI Buffalo Division Safe Streets Task Force (FBI-SSTF) has been conducting an investigation of the criminal activities of members and associates of the Black Soprano Family gang, a violent street gang which operates in the Delavan/Courtland Avenue area of Buffalo, New York. Members of the BSF gang are responsible for the distribution of powder cocaine, crack cocaine, heroin, fentanyl, and butyryl fentanyl in and around the east side of Buffalo, NY, as well as parts of Pennsylvania. Members and/or associates of this gang have been known to commit violent acts in furtherance of their illegal activities, including homicide.

8. Members of the BSF gang are active on social media. Members and associates use Facebook to upload photographs during social events, many of which are taken within the east side of Buffalo, NY. Members of these gangs will, "tag," photos with monikers, nicknames, locations, or numbers significant to the gangs. Tags utilized include, "1300" and "N.B.C.", both referring to the Newburgh Crew gang, with which many BSF members previously identified. Members of the BSF gang are also active on Snapchat. Snapchat is mobile application made by Snap Inc. and accessible through the Apple app store and Google play and is used to share images and videos with other snapchat users. Videos/photos, also

referred to as a “snaps,” are accessible for a short period of time before they become inaccessible. Users can either send videos and photos directly to other snapchat users or post photos and videos to their “story” which, depending on their privacy settings, allows snapchats user access for 24 hours or until the post is deleted. A screenshot can be taken of the image by the recipient, but the sender will be notified. Videos cannot be saved by the recipient. Nonetheless, law enforcement have obtained dozens of images and videos of members of the BSF gang brandishing firearms, displaying quantities of U.S. currency and narcotics. Members of the BSF gang have posted images of themselves after they are targeted in violent acts, to show they are still unharmed by their rivals.

9. JONES’ Snapchat account, utilizes the user name, Pyzon. Pyzon is a known alias for JONES. JONES’ has sent many images and videos of himself over snapchat. In June 14, 2017, JONES, utilized Snapchat to post a video of himself, approximately 22 seconds in length, that depicts JONES with one hand holding his phone to film, his other hand ultimately moving into view firing several rounds of what appears to be a semi-automatic pistol. Before the video, JONES uses a feature within Snapchat to add the text “I wantta say some shit but police on my snap only thing I’m gone say is this” to this video. After the video, JONES added the text “If y’all dnt think the police not watchin yall Niggaz n some of Bitches snaps yall crazy in tht video tht wasn’t me but since it was on my snap they told every police officer look out for me I might have a gun thts when I first found out they watchin.” After the text, several images are shown of JONES and another BSF gang member.

10. In March of 2018, members of the DEA arrested a BSF associate and narcotics distributor in relation the fatal fentanyl overdose of A.J. The distributor is hereinafter referred



to as CS-1. CS-1 had personal knowledge that **JONES** was a heroin distributor, operating in Buffalo, NY as well as within Pennsylvania. Following the execution of a search warrant of A.J.'s cellular telephone, a text message conversation was recovered between A.J. and CS-1. A.J. sent a text message that read "Is it thr same py has cuz his stuff bomb" to which CS-1 responded, "Yeah it's the same . . . We all in the same circle . . . I don't know for sure but 9xs outta 10 it's the same probably better cause I don't put nothing on it." Based off my training and experiences, these series of texts are referring to the selling of narcotics. "Py" is a shortened nickname used by **JONES**. CS-1 confirmed to your affiant that she understood "Py" to refer to **JONES**.

11. On January 11, 2018, BSF gang member Dontrell R. Wise was arrested following pursuant to a federal arrest warrant issued by Honorable Jeremiah J. McCarthy, United States Magistrate Judge. During his arrest, a black Apple I-phone Model: A1778 was in his immediate possession. Following the execution a search warrant of this cellular telephone, the phone's digital contents were examined. The phone's records showed that **JONES** was not only in frequent contact with Wise, but that there were several Facebook group messages in which narcotics sales were discussed. Phone number 716-994-0349, which is believed to be used by Wise, stated "Yo its two girls and a boy the girls 9 and 6 and the boy 3". **JONES** responded "Ok". 716-994-0349 wrote, "How much?", **JONES** responded, "75 for the three" and "Them baskets done." Based off my training and experiences, this Facebook message group chat was referring to narcotics trafficking.

12. On April 18, 2018, **JONES** was arrested by Cheektowaga Police Department (CPD) for assault on his girlfriend. During his arrest, **Subject Phones 1-3** were in his

immediate possession. CPD then immediately transferred to FBI-SSTF custody. Based on my training and experiences, I know that narcotics traffickers will use multiple cellular telephones in order to conduct their business, and often times will not provide specific cellular phone numbers with law enforcement in order to shield their dealings.

### **SUMMARY OF RELEVANT TECHNOLOGY**

13. A cellular telephone or mobile telephone is a handheld wireless device used primarily for voice communication through radio signals. These telephones send signals through networks of transmitter/receivers called “cells”, enabling communication with other cellular telephones or traditional “land line” telephones. A cellular telephone usually includes a “call log,” which records the telephone number, date, and time of calls made to and from the phone.

14. In addition to enabling voice communications, cellular telephones offer a broad range of capabilities. These capabilities include, but are not limited to: storing names and phone numbers in electronic “address books”; sending, receiving, and storing text messages and email; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Cellular telephones may also include global positioning system (“GPS”) technology for determining the location of the device. Based on your Affiant’s training and experience, and the information learned throughout this investigation, it is known that persons associated with drug trafficking organizations in general utilize the cellular telephones to communicate with others about the possession, transportation, and distribution of controlled substances, including fentanyl.



**SEEKING AUTHORIZATION TO SEARCH AND SEIZE**

15. Accordingly, the application seeks authorization to search for and seize all:

- a. Records of telephone calls, including incoming, outgoing, and missed calls, phone contact addresses, email addresses and telephone numbers in directories, documents and files which reflect names, email addresses, addresses, telephone numbers and objects related to drug trafficking, and photographs regarding drug trafficking and drug trafficking associates contained in the cellular telephones;
- b. Text messages and emails contained in the cellular telephones related to drug trafficking and drug trafficking associates; and
- c. Records regarding the ownership and/or possession of the searched items.

16. Based on my training, my experience, my participation in other narcotics investigations, my participation in this investigation, and my discussions with other experienced law enforcement personnel, I have learned that significant narcotics traffickers such as dealers in fentanyl and other controlled substances frequently maintain, in portable mobile communication and storage devices, addresses, email addresses and telephone numbers in directories, documents and files which reflect names, email addresses, addresses, telephone numbers, and objects related to drug trafficking, and photographs regarding drug trafficking and drug trafficking associates contained in the cellular telephones.

17. Based on your Affiant's experience, it is believed the **Subject Phone 1-3** are evidence of and/or contain evidence of the Enumerated Offenses, which have been committed. It is likely that **JONES** utilized these cellular devices to contact Wise and other co-conspirators regarding the sale of fentanyl and other controlled substances. As such, I

believe that the Subject Property described above contains evidence of the Enumerated Offenses, which have been committed by JONES and others.

18. Based on your Affiant's knowledge and training and the experience of other Agents with whom I have discussed this investigation, I know that in order to completely and accurately retrieve data maintained in cellular telephones hardware or software, to ensure the accuracy and completeness of such data, and to prevent the loss of the data either from accidental or intentional destruction, it is often necessary that the cellular telephones, related instructions in the form of manuals and notes, as well as the software utilized to operate such a device, be seized and subsequently processed by a qualified specialist in a laboratory setting.

#### **ANALYSIS OF ELECTRONIC DATA**

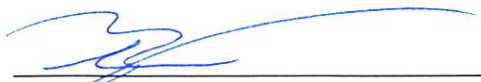
19. The search warrant applied for would authorize the seizure of electronic storage media or, potentially, the copying of electronically stored information, all under Rule 41(e)(2)(B) of the Federal Rules of Criminal Procedure.

20. Searching the cellular telephones for the evidence described above may require a range of data analysis techniques. In some cases, it is possible for Agents to conduct carefully targeted searches that can locate evidence without requiring a time-consuming manual search through unrelated materials that may be commingled with criminal evidence. For example, Agents may be able to execute a "keyword" search that searches through the files stored in a cellular telephone for special words that are likely to appear only in the materials covered in the warrant by looking for particular directory or file names. In other cases, however, such techniques may not yield the evidence described in the warrant.



Suspected criminals have the ability to mislabel or hide information and directories; encode communications to avoid using key words, attempt to delete files to evade detection; or take other steps designed to frustrate law enforcement searches for information. These steps may require Agents to conduct more extensive searches, such as scanning areas of the device's memory not allocated to listed files, or opening every file and scanning its contents briefly to determine whether it falls within the scope of the warrant. In light of these difficulties, your Affiant requests permission to use whatever data analysis techniques appear necessary to locate and retrieve the evidence described above.

**WHEREFORE**, based upon the foregoing, your Affiant submits that there is probable cause to believe that the **Subject Phones 1-3** are evidence of, and/or contain evidence of the Enumerated Offenses, and/or evidence of other co-conspirators involved in the Enumerated Offenses, which have been and continue to be committed.



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THOMAS V. WEIS  
Special Agent  
Federal Bureau of Investigation

Sworn to before me

this 3rd day of May, 2018



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HONORABLE H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge